

REMARKS

Reconsideration of the above-identified application is respectfully requested.

Claims 1 to 4 and 6-20 remain for consideration.

The Examiner rejected claims 1-20 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims have been extensively amended as suggested by the Examiner to remove indefiniteness. The Examiner questioned the word "atoxic" and the correct translation from the German term "nicht-toxisch" is non-toxic and such correction has been made in the claims.

Claim 1 has been amended to include the subject matter of claim 5 which claim was not the basis for any rejection interposed by the Examiner.

The present invention relates to a chunk for use as pet food produced according to the invention which results in a firmness approximately eighteen times higher than the firmness commercially available standard meat-chunk that are presently used in pet food. Furthermore, the chunks produced according to the present invention are capable of withstanding sterilization and survive storage for several years. In contrast, commercially available chunks usually soften upon sterilization and disintegrate after storage for several years.

Applicant has performed break strength measurements on chunks according to the present invention and on commercially available standard meat chunks. The break strength measurements were done on a Zwick machine using the following parameters: stamp diameter = 50mm; speed = 30 mm/min; pre-force applied = 0.1 N; program stop: $dF = 5\% F_{max}$; break strength = maximum force before a sudden 5% or more drop of force occurs; the measurements were performed after sterilization of the respective chunk at 129°C for 55 min. The break strength of the chunk according to the present invention was 125 N as compared to the break strength of the standard commercially available chunk, which was 7 N. In other words, the chunk according to the present invention was 18 times firmer than a commercially available chunk normally used in standard pet food.

As presently amended claim 1 includes the limitations in prior claim 5 which recites numerical ranges for the ingredients for the chunk. None of the prior art discloses or makes obvious these specific ranges now positively cited in claim 1. Accordingly the rejection of claim

1 under 35 U.S.C. § 102(b) as being anticipated by Lee (US 5456933) or Bernotavicz (US 4143168) or WO 97/02760 has been obviated and cannot be maintained.

The Examiner additionally rejected claims 1 to 4 and 6 to 12 under 35 U.S.C. § 103(a) as being unpatentable over Lee. As noted above, Lee does not disclose the specific ranges in prior claim 5, now incorporated into claim 1 and accordingly the rejection under 35 U.S.C. § 103(a) over Lee has been obviated.

Similarly, the Examiner rejected claims 1 to 4 and 6 to 12 under 35 U.S.C. § 103(a) as being unpatentable over Bernotavicz. Again as mentioned above, Bernotavicz does not teach or disclose the specific ranges now incorporated in claim 1 from the inclusion of prior claim 5. Accordingly, this rejection may not be maintained.

The Examiner also rejected claims 1 to 4 and 6 to 12 under 35 U.S.C. § 103(a) as being unpatentable over WO 97/02670. Again as pointed out above, WO 97/02670 fails to teach or suggest the specific ratios included in prior claim 5 now incorporated in new claim 1. Accordingly the rejection under 35 U.S.C. § 103(a) as being unpatentable over WO 97/02670 is believed to be obviated.

It is also noted that while the cover sheet of the application states that claims 1 to 20 were rejected, no specific rejection was made by the Examiner to claims 13 to 20. Thus, other than amending claim 16 to avoid the § 112 indefiniteness problem, these claims have not been amended.

Patent
Serial No. 09/806,243
Attorney Docket 400004-2004

Conclusion

Accordingly, in view of the above amendments and remarks favorable reconsideration and allowance of the application is respectfully requested.

Applicants request a two month extension of to respond to this office action and our check in the amount of \$450.00 is enclosed as the requisite fee.

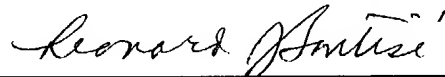
In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

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